REMARKS

Claims 1-49 remain in this application. Claims 1, 7, 9-12, 18-26, 32, 34-37, 42, 43 and 46 have been previously amended. No claims have been cancelled.

Applicants thank the Examiner for the detailed study of the application and prior art.

Applicants thank the Examiner for the very detailed study of the previously submitted 131 Declaration and the constructive criticism and what other evidence regarding diligence should be submitted as exhibits, and specifically, exhibits showing diligence at least a time period from October 1997 to January 1998 and to provide these exhibits with actual dates.

Applicants also note the Examiner's contention regarding U.S. Patent No. 6,725,428 having a U.S. patent application filing date of November 14, 1997, based on a foreign application filed in Great Britain on November 15, 1996. Applicants note that typically a U.S. application is not effective on the filing date of an earlier filed application when the earlier application is a foreign patent application under Section 119. As noted by the CCPA in the case *In re Hilmer*, 359 F.2d 859, 149 USPQ 480, 500 (C.C.P.A. 1966):

> If any "weight of authority" is to be found in this we would say the scales tip more than

> perceptibly in favor of the restriction of U.S. patents as references to their filing dates in the United States, as stated in section 102(e) and in accordance with "in this country" limitations of 102(a), (g), and the prohibitions of Section 104.

The American Inventors Protection Act of 1999 includes an 18-month publication for U.S. patent applications and the effective date of a U.S. patent application publication, or international application publication under PCT Article 21(2) is the earlier of its publication date or the date that it is effective as a reference under 35 U.S.C. §102(e). Thus, the date to be overcome under Rule 131 is the filing date of the U.S. application or international application publication under PCT Article 21(2). It is not the foreign country priority date.

Applicants also note the Examiner's contention that some of the exhibits appear to show commercial efforts to exploit an invention. Indeed, there may have been some presentations to Lockheed Martin and CurranCare in which some marketing aspects were discussed, but as noted in the attached Third Supplemental Declaration and set forth in the exhibits, these presentations and communications with these companies, especially Lockheed Martin with its extensive technical infrastructure, gave technical insights to the inventors for further development during the whole period of time in which

diligence is required. The reduced to practice invention included thousands of lines of code directed to the claimed invention and the development and drafting of such code required insight into the maintenance requirements of technically complex establishments, such as Lockheed Martin and CurranCare.

As to the specific time period of October 1997 to January 1998 indicated by the Examiner, pages 10-13 set forth in detail the numerous added pages, notes, and development in that period of time. After noting the Office Action rejection mailed October 24, 2005, the inventors and other personnel at MasterLink Corporation had searched stored papers to find old notes and materials from that period with actual dates to show diligent work by the inventors.

Starting at paragraph 24 of the 131 Declaration, the numerous exhibits show development was being accomplished on an enterprise solution and the use of data centric systems and workflow process. Meetings were also held with the Phoenix Wireless Group to determine maintenance requirements and work was diligently accomplished in designing other objects, classes, methodology, local design, class diagrams, dictionary and use case scenarios. These development meetings impacted code development and the actual writing of code. There are numerous attachments and handwritten notes and even a development timeline setting forth a time frame for diligent

work with start and finish dates. Further work had been accomplished regarding what kind of definitions could be implemented for different agents and how any software could fit into the different systems as developed. This was all accomplished and developed as meetings were held with companies such as Lockheed Martin and Phoenix Wireless Group. Also, specifications were developed with the Construction Systems Institute as related to hospitals and facilities with similar maintenance requirements as shown in Exhibit 3F.

Applicants note that there may have been some proposals to CurranCare, but this was all part of the development to establish the system and develop a planner scheduler, dispatcher, job management agents and determine what kind of different definitions such as job types, job state transitions, tasks, targets, skills, work schedules and rules could be contained in a database.

Actual code that had been written as part of the reduction to practice included thousands of lines of code. The necessary details to develop the code were established during this continuous period of diligence as noted in the Declaration. Applicants contend that this Declaration is now sufficient to overcome U.S. Patent No. 6,571,215 to Mahapatro and the cited Pereschi.

Again, Applicants emphasize that some of the exhibits may appear to be directed to marketing, but the

entirety of the large volume of the exhibits submitted with this 131 Declaration clearly show that the inventors worked diligently. During some presentations, there may have been some marketing involved because the presentations all involved a back-and-forth discussion among the participants, but as also set forth in the declarations, these discussions aided inventor Fenimore and later inventor Levine to draft appropriate code and reduce the invention to practice in a manner that was acceptable for all parties.

Any maintenance program, such as with a large establishment and infrastructure as Lockheed Martin, or a hospital system, or wireless company, is incredibly complex and requires months and years of advanced planning and diligent work if only a small company is involved as set forth in these exhibits.

If the Examiner has any questions, the undersigned attorney would appreciate a telephone call.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: **MAIL STOP AMENDMENT, COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450**, on this 21st day of February, 2006.

Julie Lalan